

**THE MCDANIEL LAW FIRM, P.C.**  
54 Main Street  
Hackensack, New Jersey 07601  
201-845-3232  
201-845-3777 (Facsimile)  
*Attorneys for Plaintiff Peter Brownstein*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

PETER BROWNSTEIN,

Plaintiff,

v.

TINA LINDSAY and ETHNIC  
TECHNOLOGIES, LLC,

Defendants.

Civ. Action. No. 3:10-cv-01581 (JAP) (TJB)

**SECOND AMENDED COMPLAINT**

Plaintiff **PETER BROWNSTEIN** by way of Complaint against Defendants **TINA LINDSAY** and **ETHNIC TECHNOLOGIES, LLC** alleges as follows:

**THE PARTIES**

1. Plaintiff Peter Brownstein (hereinafter "Brownstein") is an individual residing at 54 Broad Avenue, Apt. 5B, Palisades Park, New Jersey 07650. Brownstein is the co-author of the LCID, a creative work fixed in or about late 1994 or early 1995. The LCID was renamed as the TAP System. Brownstein is a former shareholder of TAP Systems, Inc. (hereinafter "TAP"), which licenses the LCID to Ethnic Technologies, LLC (hereinafter "Ethnic Technologies").

2. Defendant Tina Lindsay (hereinafter "Lindsay") is an individual residing at 44 Briarwood Avenue, Keansburg, New Jersey 07734. Lindsay is the other co-author of the LCID

and, as a result of the sales of Brownstein's interest in TAP in 2010, is the sole owner of TAP Systems, Inc.

3. Defendant E-Tech is a New Jersey limited liability company with a principal place of business at 60 Huyler Street, South Hackensack, NJ 07606. E-Tech licenses the TAP System (previously known as the LCID) from TAP pursuant to agreements executed in 1997 and 2000. The Tap System is the principal component of Ethnic Technologies principal product, known as either the E-Tech or the E-Tech System.

4. Non-party TAP is a New Jersey Corporation with a place of business at 60 Huyler Street, South Hackensack, NJ 07606. TAP Systems is a licensee of the LCID, which it in turn licenses the LCID to Ethnic Technologies.

#### **JURISDICTION AND VENUE**

5. This is an action seeking a declaratory judgment, pursuant to 28 U.S.C. §2201, declaring Plaintiff Brownstein a co-author of the LCID.

6. This Court has original subject matter jurisdiction over this matter under 28 U.S.C. §1338(a) because it seeks declaratory judgment concerning questions of federal law arising under the U.S. Copyright Act, 17 U.S.C. §101 et seq.

7. This Court has supplemental jurisdiction over the claims arising under state law pursuant to 28 U.S.C. § 1367 as they are related to claims in the action within the original jurisdiction of this Court such that they form part of the same case or controversy.

8. Each of the Defendants reside in this district and are subject to general jurisdiction within this State.

9. Venue is proper under 28 U.S.C. § 1400(a) in that the Defendants reside in this district and are subject to personal jurisdiction in this district at the commencement of this action, and because the events which gave rise to this claim occurred in this district.

### **FACTS**

10. The LCID is a computerized system for identifying the probable ethnic characteristics (race, ethnic background, language, religion) of individuals based on a set of rules applied to the person's name and address.

11. The LCID is comprised of two principal elements, first, a set of ethnic rules and classifications that draw inferences from the information contained in name and address lists, together with an associated coding scheme, and, second, a series of computer programs that process name and address lists and apply the ethnic rules.

12. Brownstein and Lindsay were shareholders in TAP Systems, which was formed to to commercially exploit the LCID. From 1997 to the present, TAP Systems has licensed the LCID (the TAP System) to Ethnic Technologies. The TAP System is the principal component of derivative works sold by Ethnic Technologies as the E-Tech System.

13. Lindsay has granted to TAP an exclusive license of her undivided interest as the co-author of the LCID. Brownstein made no such assignment and still retains his undivided interest in the joint work.

14. From 2000 to June 2009, Brownstein created numerous computer programs to enhance the LCID. Each such program was identified as the property of TAP Systems.

15. In March 2010, Lindsay acting through her attorney expressly repudiated Brownstein's co-ownership of the LCID. From approximately May 2010 to the present, Lindsay has failed and refused to account to Brownstein as the co-author of the LCID.

**COUNT I**  
**(Declaratory Judgment as to the LCID)**

16. Brownstein repeats and re-alleges the foregoing paragraphs as if fully set forth herein.

17. The LCID is a joint work, incorporating the encoding rules authored by Lindsay and the programs written by Brownstein as a complete work. Brownstein is the co-author and co-owner of the copyrighted work as provided for by the Copyright Act, 17 U.S.C. §101, et seq.

18. Lindsay's express repudiation of Brownstein's ownership in the LCID and failure to account to him for the benefits derived from the joint work is in direct conflict with his ownership rights.

19. By virtue of the foregoing, an actual and justiciable controversy exists between Brownstein and Lindsay with respect to whether Brownstein is the co-author of the LCID.

20. Accordingly, Brownstein is entitled to a declaration that he is the co-author of the LCID and co-owner of an equal undivided interest in the LCID, which is currently licensed to Ethnic Technologies.

**WHEREFORE**, Plaintiff demands judgment against defendant as follows:

- A. A declaration that Brownstein is the co-author of the LCID and co-owner of the copyright to the LCID;
- B. That Defendants account to Brownstein for the benefit derived from the exploitation of the LCID.
- C. For attorney fees and cost of the suit;
- D. For such other and further relief as the Court deems appropriate.

**COUNT II**  
**(Imposition of a Constructive Trust)**

21. Brownstein repeats and re-alleges the foregoing paragraphs as if fully set forth herein.

22. From the time that TAP was formed through the present, Lindsay and Brownstein were fiduciaries to each other as owners of TAP and as Managers of E-Tech.

23. In breach of the duties of loyalty and care, Lindsay failed to disclose to Brownstein that the 872 and 127 Registrations concerned a joint work of which Brownstein was the co-author.

24. Brownstein has contributed to the development of the LCID extensively, writing approximately 100 programs for its development and application and supervising the development of multiple derivate works, including software for multiple platforms.

25. Lindsay has disclaimed Brownstein's rights as co-author and is seeking to exclude him from the business of E-Tech, which successfully markets the LCID and derivative works.

26. Lindsay will be unjustly enriched if she is permitted to retain sole ownership of the LCID and, accordingly, a constructive trust must be declared concerning the work and in the receipt of all proceeds, past and future, received as a result of the exploitation of the LCID.

**WHEREFORE**, plaintiff demands judgment against defendants as follows:

- A. Imposition of a constructive trust on the LCID for the benefit of TAP and Brownstein;
- B. Imposition of an equitable lien on the LCID in favor of Brownstein;
- C. An accounting for the royalties due and owing to Brownstein as co-author;
- D. For attorney fees and cost of the suit;
- E. For such other and further relief as the Court deems appropriate.

**JURY DEMAND**

Plaintiff Brownstein demands trial by jury of all issues so triable.

DATED: May 1, 2014

**THE MCDANIEL LAW FIRM, P.C.**



By: \_\_\_\_\_

Jay R. McDaniel, Esq.

*Attorneys for Plaintiff Peter Brownstein*

**LOCAL RULE 11.2 CERTIFICATION**

I certify that to the best of my knowledge, the matter in controversy is not the subject of any other action pending in any court, or of any pending arbitration or administrative proceeding.

DATED: May 1, 2014

**THE MCDANIEL LAW FIRM, P.C.**



By: \_\_\_\_\_

Jay R. McDaniel, Esq.

*Attorneys for Plaintiff Peter Brownstein*